

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

Plaintiff

-VS-

DONTE SMITH

Defendant

CASE NO. 1:12 CR 449-6

**ORDER ACCEPTING PLEA
AGREEMENT AND JUDGMENT**

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge Kenneth S. McHargh regarding the change of plea hearing and plea agreement of Donte Smith which was referred to the Magistrate Judge with the consent of the parties.

On 26 September 2012, the government filed a five-count indictment against Donte Smith for conspiracy to possess with intent to distribute and to distribute cocaine in violation of 21 U.S.C. § 846, violent felon in possession of body armor in violation of 18 U.S.C. § 931(a)(1), felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1), and use of a communication facility to facilitate a drug trafficking offense in violation of 21 U.S.C. § 843(b). On 31 October 2012, a hearing was held in which Donte Smith entered a plea of not guilty before Magistrate Judge Nancy A. Vecchiarelli, waived his right to a detention hearing and executed a waiver. On 1 August 2013,

Magistrate Judge McHargh received Donte Smith's plea of guilty and issued a Report and Recommendation ("R&R") concerning whether the plea should be accepted and a finding of guilty entered. Magistrate McHargh filed his R&R on 2 August 2012.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Donte Smith is found to be competent to enter a plea. He understands his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Donte Smith is adjudged guilty of Counts 1, 6 and 7 in violation of 21 U.S.C. §§ 846, 841(a)(1), 841(b)(1)(C), 18 U.S.C. §§ 931(a)(1), and 922(g)(1).

IT IS SO ORDERED.

Dated:

28 August 2013


UNITED STATES DISTRICT JUDGE